

HOUSE BILL 3224  
By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 17,  
Chapter 4, relative to the selection of appellate  
court judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 17-4-112, is amended by deleting the section in its entirety and substituting instead the following:

§17-4-112.

(a) When a vacancy occurs in the office of an appellate court after September 1, 1994, by death, resignation or otherwise, the governor shall, with the advice and consent of the Senate, fill the vacancy by nominating one (1) of the three (3) persons submitted by the judicial selection commission, or the governor may require the commission to submit one (1) other panel of three (3) nominees. If the governor rejects the first panel of nominees, the governor shall nominate one (1) of the nominees in the second panel. If the governor rejects the first panel, the governor shall state in writing for the judicial selection commission the reasons for the rejection of the panel.

(b) The term of a judge nominated under this section and confirmed by the Senate, shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

SECTION 2. Tennessee Code Annotated, Title 17, Chapter 4, Part 1, is amended by adding the following new section to be designated as § 17-4-113:

§ 17-4-113.

(a) When the governor nominates a person to fill a vacancy in the office of an appellate court as provided in § 17-4-112, the governor shall transmit the name of such person to the chief clerk of the senate and such action shall commence the confirmation process.

(b)

(1) Upon receipt of a nomination from the governor, the chief clerk shall transmit the name of the nominee to the speaker of the senate. The speaker shall refer the nomination to the senate judiciary committee for such committee's review and recommendation. The committee may conduct hearings or otherwise examine the qualifications of the nominee by any method selected by the committee or provided by the rules of the senate.

(2) When reviewing the qualifications of a judicial nominee, the judiciary committee shall have the same authority and powers as are conferred upon a standing committee by the rules of the senate and title 3, chapters 3 and 4.

(3)

(A) If at the conclusion of the review, a majority of the members to which the committee is entitled vote to recommend confirmation of the person nominated to fill a vacancy in the office of an appellate court, such recommendation shall be transmitted to the chief clerk for a confirmation vote by the full senate.

(B) If at the conclusion of the review, a majority of the members to which the committee is entitled vote against recommending confirmation of the person nominated to fill a

vacancy in the office of an appellate court, such vote shall be transmitted to the chief clerk of the senate. The chief clerk shall inform the governor in writing that the person nominated was not confirmed by the senate and that a vacancy remains in such office. The governor may either nominate another person whose name was submitted by the judicial selection commission or the governor may require the commission to submit another panel of three (3) nominees.

(c) If confirmation of a nominee is recommended by the judiciary committee pursuant to subsection (b)(3)(A), the nomination shall be placed on the senate calendar for a full vote of the senate. The senate, by rule, shall determine on which calendar a judicial confirmation vote is placed, the order of business in which it will appear for vote and the procedure by which it is debated and brought to a vote.

(d)

(1) If a majority of the members to which the senate is entitled vote to confirm the person nominated by the governor and recommended by the judiciary committee to fill an appellate court vacancy, the nomination of such person is confirmed and notice of confirmation shall be transmitted by the chief clerk to the governor. The person is officially confirmed by the senate as of the time of transmittal of the notice of confirmation to the governor.

(2) If a majority of the members to which the senate is entitled vote against the confirmation of the person nominated by the governor and recommended by the judiciary committee to fill an appellate court

vacancy, the nomination of such person is rejected. The chief clerk shall inform the governor in writing that the nomination of such person was rejected by the full senate and a vacancy shall remain in such office. The governor may either nominate another person whose name was submitted by the judicial selection commission or the governor may require the commission to submit another panel of three (3) nominees.

(e) The senate shall have twelve (12) months from the date the governor transmits the name of a judicial nominee pursuant to this section to the chief clerk of the senate to review and confirm or reject such nomination. If the senate fails to act upon such confirmation or fails to send notice to the governor that the senate has confirmed or rejected the nominee within such twelve (12) month period, the nominee is deemed to be confirmed as of the day the twelve (12) month period expires.

(f) Nothing in this section shall be construed as preventing the senate judiciary committee from reviewing the nomination of a person to fill a vacancy in the office of an appellate court while the general assembly is not in session or from the judiciary committee or full senate acting upon more than one (1) such nomination at the same time.

SECTION 3. Tennessee Code Annotated, Section 17-4-114, is amended by deleting from subsections (c) and (d)(2) the citation “§ 17-4-112” and substituting instead the citations “§§ 17-4-112 and 17-4-113”.

SECTION 4. Tennessee Code Annotated, Section 17-4-115, is amended by deleting from subsections (c) and (d)(2) the citation “§ 17-4-112” and substituting instead the citations “§§ 17-4-112 and 17-4-113”.

SECTION 5. Tennessee Code Annotated, Section 17-4-116, is amended by deleting from subsections (c)(2) and (d) the citation “§ 17-4-112” and substituting instead the citations “§§ 17-4-112 and 17-4-113”.

SECTION 6. This act shall take effect September 1, 2006, the public welfare requiring it and shall apply to any vacancy in the office of an appellate court occurring on or after such date.